

MOTION BY SUPERVISOR ZEV YAROSLAVSKY

March 12, 2013

In 2005, in an effort to address stormwater and urban runoff pollution, this Board approved my motion to explore how the Flood Control District might best implement “a stable and long-term regional funding mechanism that would finance the construction, operations and maintenance of local and regional projects that address water quality and provide other multiple benefits.” At that time the District and other municipal stormwater dischargers, including 84 cities in the County and certain other agencies, were required under the Federal Clean Water Act to comply with a Municipal Stormwater Permit. Under the terms of that Permit they were considered to be in compliance as long as they were implementing “programmatic controls” such as sweeping streets and cleaning catch basins at a particular frequency. The cost of complying with even these minimal requirements amounted to approximately \$215 million annually for all the local permittees. The purpose of the motion was to position the District and the region to respond to what we anticipated would be the increasingly stringent and expensive requirements of future permits.

In 2007 and 2009 the Municipal Stormwater Permit was expanded to include a requirement that dischargers not exceed two Total Maximum Daily Load limits (TMDLs), or levels of pollutants that a water body may receive and still meet water quality standards. These

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were the Marina del Rey Bacteria TMDL in 2007 and the Los Angeles River Trash TMDL in 2009. Compliance with TMDLs requires expensive treatment controls such as low flow diversions or stormwater treatment devices. In 2012, the cost to the region to comply with the permit was in excess of \$350 million.

In December, 2012 a new stormwater permit went into effect that includes 33 TMDLs. Permittees must submit watershed plans describing the specific controls they will implement to meet the TMDLs. Permittees must quantitatively demonstrate that their proposed controls will in fact be successful in meeting these very stringent standards. It is anticipated that the cost of compliance with the permit for all agencies in Los Angeles County over the next twenty years will run in the tens of billions of dollars.

In response to this dilemma and the 2005 motion, the proposed Clean Water, Clean Beaches Measure has been proposed. The Measure will provide a stable, long-term source of funding for regional stormwater projects and offers a path towards compliance with our responsibilities as permittees. Under the Measure, the Flood Control District would provide a service to every property to reduce stormwater and urban runoff pollution, and a fee would be imposed on every property in proportion to the cost of services to that property. All property owners would receive notice about the proposed fee and be given an opportunity to protest. If more than 50% of the property owners protest the fee, the measure must be withdrawn; if fewer than 50% of owners protest, the Board of Supervisors may call an election. The measure could be voted on at the polls, or it could be put to a vote of property owners through a mail-in ballot.

On July 3, 2012 the Board directed County staff to commence the notice and hearing process for the Clean Water, Clean Beaches measure. A protest hearing was held on January 15, 2013 and the hearing has been kept open to this day. Far fewer than half of all property owners have submitted protests to the Board. However, very significant issues have arisen. In particular, many members of the public have expressed strong concerns about the use of a

mail-in ballot. It may be that the most prudent course of action at this time is to reconsider that element. This would enable the Flood Control District to consider alternatives to the property-related fee and may in turn allow us to resolve other issues.

In drafting and pursuing this program, the County and Flood Control District have undertaken an effort that is truly unprecedented. Were this fee to be voted into existence, it would be the only one of its kind, and ours would be the only area in the country to have put in place a region-wide funding and implementation mechanism for stormwater pollution purposes. The Flood Control District should be congratulated for its foresight and creativity in this matter. However, the Board should not proceed with an election at this time. Instead, it should consider whether a different approach to securing the long-term, stable source of revenue needed to meet the TMDL challenge might not be the more prudent course.

I, THEREFORE, MOVE that the Board, acting as Governing Body of the Los Angeles County Flood Control District, take the following action with respect to the proposed Clean Water, Clean Beaches Fee:

1. Close the public hearing.
2. Determine not to proceed at this time with the Clean Water, Clean Beaches Measure as proposed.
3. Direct the Flood Control District, working in close consultation with County Counsel and with business, environmental, government agency and other stakeholders, to prepare a ballot measure for either the June, 2014 or the November, 2014 ballot that would seek voter support for a stable and long-term regional funding mechanism to finance the construction, operations and maintenance of local and regional projects that address stormwater and urban runoff pollution.